

Message Text

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PAGE 01 GENEVA 00511 01 OF 02 260938Z

ACTION EB-08

INFO OCT-01 IO-13 ISO-00 L-03 FRB-03 OMB-01 ITC-01 SP-02
USIA-06 AGRE-00 AID-05 CIAE-00 COME-00 INR-07 LAB-04
NSAE-00 OIC-02 SIL-01 STR-04 TRSE-00 CIEP-01 CEA-01
AF-08 ARA-06 EA-07 EUR-12 NEA-10 SS-15 NSC-05 /126 W
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R 260913Z JAN 77

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TO SECSTATE WASHDC 4748

LIMITED OFFICIAL USE SECTION 1 OF 2 GENEVA 0511

E.O. 11652: N/A

TAGS: UNCTAD

SUBJECT: THIRD UNCTAD IPG ON INTERMODAL TRANSPORT -
STATUS REPORT AS OF NOON, JANUARY 24

1. SUMMARY: CHAIRMAN OF THE IPG (SELVIG, NORWAY) HAS
PRODUCED A "DRAFT COMMON UNDERSTANDING...ON THE SCOPE
OF THE DRAFT CONVENTION" WHICH HAS BEEN ACCEPTED IN PRINCIPLE
BY THE GROUP OF 77 AND BY GROUP D. SELVIG'S PROPOSED
COMPROMISE APPEARS TO RELEGATE MOST OF G-77 PUBLIC LAW
PROPOSALS TO PREAMBLE OF PROPOSED CONVENTION, WITH PUBLIC
LAW ARTICLES ONLY ON LEGISLATIVE POWERS OF STATES TO
REGULATE MTOS. CONSULTATIONS REGARDING MT SERVICES, AND
POSSIBLY CUSTOMS. SELVIG PAPER ACCEPTABLE TO SCANDINAVIANS
AS BASIS FOR FUTURE CONVENTION, ALTHOUGH REMAINDER OF
GROUP B CONTINUES TO OPPOSE (TO VARYING DEGREES)
POSSIBLE INCLUSION OF PUBLIC LAW PROVISIONS. END SUMMARY

2. DEL DEVOTED CONSIDERABLE EFFORT LATE LAST WEEK TO
GETTING STRONG B GROUP PLENARY STATEMENT ON LACK OF COMPELLING
NEED FOR A CONVENTION AND REITERATING GROUP B OPPOSITION
TO INCLUSION OF PUBLIC LAW PROVISIONS. ALTHOUGH MANY
B'S REMAINED WARY OF SUCH A STATEMENT, GROUP B
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PAGE 02 GENEVA 00511 01 OF 02 260938Z

AGREED ON THURSDAY TO A UK PROPOSAL TO MAKE SUCH A
STATEMENT ORALLY IN MEETING OF GROUP COORDINATORS,
COUPLED WITH GROUP B REQUEST FOR IMMEDIATE WORKING GROUP
DISCUSSION OF G-77S PROPOSALS ON SOCIAL AND ECONOMIC
ISSUES (MTO LICENSING, BANKABILITY OF DOCUMENTS, RELATION-
SHIP OF CONVENTION TO NATIONAL CARGO AND INSURANCE
ALLOCATION, ETC.). US. UK AND OTHERS SAW SUCH A DIS-

CUSSION AS MEANS TO CLARIFY FOR ALL B GROUP MEMBERS
WHETHER G-77 WISHES A FACILITATION CONVENTION OR A CODE
OF CONDUCT FOR MTOS.

3. TO HEAD OFF SUCH A DICSUSSION, IPG CHAIRMAN PROFESSOR
SELVIG (NORWAY) CIRCULATED A "DRAFT COMMON UNDER-
STANDING ON THE SCOPE OF A CONVENTION" ON FRIDAY MORNING.
(SELVIG HAS HAD HIS "COMPROMISE PACKAGE" UNDER PREPARATION
SINCE BEGINNING OF IPG, AND HAS CARRIED ON PRIVATE CON-
SULTATIONS REGARDING SELECTED PORTIONS OF IT WITH MOST
DELEGATION HEADS, INCLUDING U.S.). SELVIG'S PAPER SEEMS
PRINCIPALLY INTENDED TO REASSURE GROUP B. MOST G-77
SOCIAL AND ECONOMIC CONCERNS RELEGATED TO CONVENTION
PREAMBLE. SELVIG ALSO PROPOSED ARTICLE TO THE EFFECT
THAT THE CONVENTION WOULD NOT ALTER MTO RIGHTS AND
OBLIGATIONS UNDER NATIONAL LAWS OR INTERNATIONAL
CONVENTIONS (PRESUMABLY THE CODE OF CONDUCT FOR LINER
CONFERENCES), AND A RELATED ARTICLE RECOGNIZING RIGHT
OF COUNTRIES TO REGULATE AND CONTROL MTO OPERATIONS
WITHIN THEIR TERRITORY. BOTH OF THESE INVOLVE PRINCIPLE
U.S. AND MOST OTHER B'S WOULD LIKELY REQUIRE IN ANY
CONVENTION. ONLY SUBSTANTIVE PUBLIC LAW PROVISIONS
WOULD REQUIRE CONSULTATIONS BETWEEN MTOS AND SHIPPERS
REPRESENTATIVES ON INITIATION OF MTO SERVICES. ON MORE
CONTROVERSIAL ISSUE OF CONSULTATIONS ON TERMS OF EXISTING
SERVICES, SELVIG PROPOSED THAT GOVERNMENTS STUDY ISSUE
FULLY AND DISCUSS AT 4TH IPG. ON CUSTOMS, SELVIG PROPOSED
THAT 3RD IPG CONSIDER BUT TAKE NO DECISIONS ON G-77
PROPOSALS, WITH 4TH IPG TO DECIDE ON ANY POSSIBLE ACTIONS.
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PAGE 03 GENEVA 00511 01 OF 02 260938Z

4. US, UK, FRANCE AND OTHERS INSISTED THAT GROUP B
TAKE NO POSITION ON SELVIG'S PROPOSAL UNTIL G-77 VIEWS
RECEIVED, ON THE PREMISE THAT PAPER WOULD NOT SATISFY
G-77. HOWEVER, AFTER DAY-LONG G-77 MEETING FRIDAY
(ATTENDED IN PART BY SELVIG), G-77 PRONOUNCED SELVIG PAPER
ACCEPTABLE, WITH ONLY A FEW MINOR CHANGES. GROUP D
ALSO ENDORSED THE PAPER.

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PAGE 01 GENEVA 00511 02 OF 02 260954Z

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R 260913Z JAN 77

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LIMITED OFFICIAL USE SECTION 2 OF 2 GENEVA 0511

5. SELVIG'S PAPER AND ITS ORCHESTRATION HAVE BEEN MASTERFUL. PAPER IS CAREFULLY DRAWN NOT TO CONFLICT WITH STATED OBJECTIVES OF MOST GROUP B COUNTRIES. PROVISIONS RELATING TO PUBLIC LAW ARE GENERALLY INNOCUOUS OR DEFER DIFFICULTIES. G-77 ACCEPTANCE OF PAPER (WHICH MIGHT BE VIEWED AS SIGNIFICANT G-77 CONCESSIONS) MAKES IT DIFFICULT FOR GROUP B TO REJECT PAPER, AT LEAST AS BASIS FOR FURTHER DISCUSSIONS ON POSSIBLE SCOPE OF THE CONVENTION.

6. HOWEVER, MONDAY MORNING B GROUP DISCUSSION SHOWED THAT AN UNEXPECTEDLY LARGE NUMBER OF GROUP B COUNTRIES HAD RESERVATIONS ABOUT THE PAPER, OR AT LEAST DOUBTS ABOUT HOW FULLY IT MIGHT BE HONORED IN THE FUTURE IF THE PRESENT IPG ACCEPTED IT AS THE OUTLINE OF A FUTURE CONVENTION. GROUP B AGREED TO US-UK PROPOSAL THAT GROUP B PROPOSE A DIRECT DISCUSSION OF THE TERMS OF THE PAPER BETWEEN GROUPS, UNDER SELVIG'S CHAIRMANSHIP. GROUP B CHAIRMAN STRONGLY OPPOSED THIS PROPOSAL, ON GROUNDS THAT SUCH A DISCUSSION MIGHT BREAK DOWN G-77 COMMITMENT TO SELVIG'S PAPER AND REOPEN G-77 DEMANDS FOR OTHER PUBLIC LAW PROVISIONS. HOWEVER, GROUP B GENERALLY TOOK THE VIEW THAT SELVIG PAPER (AND LIMITED OFFICIAL USE

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PAGE 02 GENEVA 00511 02 OF 02 260954Z

IMPLICITLY, THE DEGREE OF G-77 COMMITMENT TO ITS PROVISIONS) HAD TO BE CLARIFIED BEFORE GROUP B GOVERNMENTS COULD TAKE ACTION ON SELVIG PROPOSAL.

7. AT THE MOMENT, PROSPECTS ARE UNCLEAR. NEAR UNANIMOUS WISH OF GROUP B FOR DIRECT EXCHANGE WITH G-77 ON TERMS OF SELVIG PAPER WILL BE HARD FOR SELVIG TO DEFLECT. IF SUCH AN EXCHANGE TAKES PLACE, IT MAY HAVE ONE OR TWO EFFECTS. IT MAY SHOW THAT G-77 IS NOT COMMITTED TO OUTLINES OF SELVIG PAPER, AND STILL

INTENDS TO PRESS FOR MORE SWEEPING PUBLIC LAW PROVISIONS. ALTERNATIVELY, IT MAY CONFIRM THAT G-77 IS PREPARED TO GIVE UP DEMANDS FOR EXTENSIVE PUBLIC LAW PROVISIONS IN A CONVENTION. IN THAT CASE, A NUMBER OF B GROUP COUNTRIES HAVE INDICATED WISH TO PREPARE B GROUP STATEMENT PINNING DOWN THE DETAILS OF PROPOSED COMPROMISE ON THE SCOPE OF A NEW CONVENTION.

8. DEL HAS MADE CLEAR WITHIN GROUP B THAT U.S. NOT NOW ALTERING ITS LONG-STANDING OPPOSITION TO INCLUDING PUBLIC LAW PROVISIONS IN ANY MT CONVENTION, AND THAT POSSIBILITY OF CHANGES IN U.S. POSITION MUST AWAIT OUT COME OF IPG AND PRECISE CLARIFICATION OF G-77 INTENTIONS.

COMMENT: ALTHOUGH NOT CERTAIN, IT NOW SEEMS PROBABLE THAT IPG WILL HAVE A FOURTH SESSION, NOW SCHEDULED FOR NOVEMBER, 1977. WHATEVER OPPORTUNITY MAY HAVE EXISTED FOR DRAWING THE EXERCISE UP SHORT LAST WEEK (BEFORE CIRCULATION OF SELVIG'S COMPROMISE PACKAGE) IS NOW PROBABLY GONE. CATTO

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